STATE OF CALIFORNIA **Budget Change Proposal - Cover Sheet**

Fiscal Year 2023-24	Business Unit 7350	Department Department of Industrial Relations	Priority No
Budget Requ e 7350-005-BCF		Program 6105 – Division of Labor Standards Enforcement	Subprogram 6105010 – Wage Claim Adjudication
•		port to Decrease Case Processing Time	es

The Department of Industrial Relations requests 42 positions and \$11.7 million in 2023-24 and \$6.5 million ongoing from the Labor and Workforce Development Fund and the Labor Enforcement and Compliance Fund to decrease statewide wage claim wait times. These resources will enable the Division of Labor Standards Enforcement, Wage Claim Adjudication unit to expand its outreach and investigation work, including supporting community resources, and to automate and improve existing processes

Requires Legislation ☐ Yes ☑ No		Code Section(s) to be Added/Amended/Repealed				
Does this BCP contain information (IT) components? ⊠ Yes □ No	• •	Department CIO	Date			
If yes, departmental Chief Informust sign.	mation Officer	Ben Bonte	12/30/2022			
For IT requests, specify the proje \$2AA, \$3\$D, \$4PRA), and the ap		most recent project approvo	al document (FSR, SPR, S1BA,			
Project No. Project Approval	Document:					
Approval Date:						
If proposal affects another depo						
Prepared By	Date	Reviewed By	Date			
Carlos Torres	12/30/2022	Jeffrey Pantoja	12/30/2022			
Department Director	Date	Agency Secretary	Date			
Katrina S. Hagen	12/30/2022	Stewart Knox	12/30/2022			
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PPBA	Date submitted to the Legislature
Andrew March	1/10/2023

A. Budget Request Summary

The Department of Industrial Relations (DIR) requests 42 positions and \$11.7 million in 2023-24 and \$6.5 million ongoing from the Labor and Workforce Development Fund and the Labor Enforcement and Compliance Fund to decrease statewide wage claim wait times. These resources will enable the Division of Labor Standards Enforcement (DLSE), Wage Claim Adjudication (WCA) unit to expand its outreach and investigation work, including supporting community resources, and to automate and improve existing processes.

B. Background/History

The WCA unit accepts claims from individuals for unpaid wages, unpaid vacation or sick leave, missed meal and rest breaks, and other unpaid compensation per Labor Code (LC) sections 96 and 98. There are 16 WCA offices across the state. The WCA Hearing Officers adjudicate citations issued by DLSE's Bureau of Field Enforcement (BOFE), Retaliation Complaint Investigation Unit (RCI), and Licensing and Registration Unit. Subsequently, staff process the incoming wage claims, lead settlement conferences, and provide outreach to employees regarding the wage claim process.

Due to new legal protections, enforcement tools, and increased wage theft awareness by the public, WCA has seen tremendous growth in the complexity of claims and number of parties involved with each claim. Changes in the law demand that the WCA unit continue to create effective ways for handling claims as well as meet statutory obligations, ensure application of new laws, and accomplish the division's mission to ensure a just day's pay in every workplace in the state and promote economic justice through robust enforcement of labor laws.

The 2020 Budget included 63 positions over a 4-year phase-in to reduce the total wait time of claim processing from over 400 days to under 200 days from docket to hearing completion. While the resources included in the 2020 Budget have assisted the division in processing wage claims, WCA is still not meeting the 120 day statutory timelines prescribed in the Labor Code and wait times increased to over 800 days in 2022.

Furthermore, since 2020 Budget, a number of bills have been enacted that grant the Labor Commissioner additional responsibilities and enforcement tools over many of the state's industries prone to wage theft. These new laws significantly increased the length of time it takes to process a wage claim, and also require support, training and supervision to ensure the requirements of the law are applied and properly carried out.

Additional Obstacles and Challenges Causing Delays

Citation Hearings

Claim processing delays are impacted by other program functions and resources diverted to those functions. For example, the WCA unit hears the appeals of those employers who appeal citations issued by BOFE. Citation hearings are governed by the Administrative Procedures Act and are different from WCA Berman hearings. Berman hearings are individual wage claims, while citation hearings are held on appeal of a citation issued by an authorized enforcement unit, with the state defending the citation on appeal. Citation hearings are more complex and can involve multiple legal issues, an entire business or businesses, individual or joint liability, hundreds of workers, and millions of dollars in wages. Evidence and witnesses in such hearings can be voluminous and involve parties represented by legal counsel. Although citation hearings are scheduled as soon as practicable upon appeal, given the backlog, the time for a hearing falls

outside of the statutory requirements. Increasingly, DLSE's legal section must be involved in hearing complex citation hearings to provide expertise.

Online Wage Claims and Intake

Over the past few years, workers have filed approximately 30,000 wage claims a year. In response to the demands of the COVID-19 Pandemic, on November 22, 2021, an online wage claim form system was launched, which allows wage claimants and/or their representatives to file a wage claim online in English and Spanish. With the launch of the online wage claim application, WCA has seen a significant increase in claims. Through mid-December 2022, the WCA unit has received 38,711 wage claims. While this has created significant access to the public in filing wage claims online, it has resulted in compaction on workloads for staff that are tasked with processing and adjudicating claims, including workload necessary to identify claim deficiencies and follow up with workers or online users to ensure that claims are sufficiently complete for processing.

DLSE anticipates a total of 40,259 new wage claims will be filed by year-end in 2022², the most in recent history. See the Historical Workload chart below.

Operational Workload Enhancements

The WCA unit has implemented and is currently implementing several workload efficiencies to leverage existing resources, build hiring and enforcement capacity, and prioritize claims for populations most vulnerable to wage theft.

Improved Hiring and Recruitment Strategies

Recruitment prioritizations are being made in the WCA unit, which include focused hiring of Hearing Officers classifications, as well as hiring Industrial Relations Representatives (IRR) to assist workers at the onset of the claim process. In addition, DLSE has prioritized hiring Office Technicians to facilitate docketing of claims and to prepare and serve notices of claims and notices of hearings. DLSE also targets recruitment through career fairs and expanded reach via social media and stakeholders in order to publicize current job openings. Increasingly, DLSE works with Community-Based Organizations (CBO) to amplify recruitment and is in the process of building recruitment pipelines with the UCLA Labor Center, Anti-Recidivism Coalition and other institutions.

Workload Reorganization and Restructuring

The WCA unit has implemented a decentralized work pilot by re- distributing the work of lesser resourced offices and offices with more significant backlogs among a cohort of offices with more capacity for processing. Consistent with this model, DLSE developed a Low Wage Industry Claim Prioritization pilot, where low wage industry claims are prioritized for conferences and hearings. This pilot initiative is administered by a cohort of DLSE district offices acting as one. The aim is to leverage resources and equalize wait times while prioritizing assistance to workers in industries where wage theft tends to be more rampant.

Further, WCA has implemented concentrated conferences. Under this model, less complex claims are scheduled for a conference held en masse, holding conferences consecutively during

¹ If BOFE issues a citation, the employer must appeal in a timely manner for a hearing to take place. Most citations require that an employer appeal within 15 business days, and a hearing must take place within a specified time (usually 30 days) unless the employer waives that requirement. Labor Code section 1197.1(c)(1) imposes strict time limits in which the division must hold the hearing on appeals of citations/penalty assessments. These time limits are directory, meaning that failure to hold them by the last date does not invalidate the citation.

² Based on claims received through December 17, 2022.

condensed time periods with multiple cases and claimants. This effort targets backlogs in a particular office and is supported by two or more offices.

DLSE has engaged CBOs to further assist and reach affected workers. As of October 2022, DLSE has engaged CBOs to provide informational webinars for workers on the wage claim process. This early engagement is an essential step toward further providing workers with the tools to build their claims, navigate the claims process, and to avoid or resolve redundancies in the claim process caused by claim deficiencies which increase delays.

WCA has also developed expectations, setting quantitative and qualitative standards for number of conferences and hearings to be scheduled and timing to hold these, as well as best practices for efficiently conducting these while maximizing enforcement. This approach is being used in conjunction with voluntary overtime during hours that are more convenient for industries with irregular work schedules, further increasing the number of settlement conferences and hearings held. These expectations are estimated to be implemented January 1, 2023.

Finally, the WCA unit has enhanced training by strengthening uniformity in processing claims and further standardizing expectations for processing claims. Concurrently, WCA has initiated a trauma-informed approach to processing wage claims, with deputies focusing on an understanding of and responsiveness to the impact of trauma claimants may have experienced from being cheated wages, effectively gathering the necessary details to complete the wage claim and delivering results. Despite all of these efforts and operational enhancements, the WCA is not meeting statutory timeframes.

Resource History

(Dollars in thousands)

Division of Labor Standards Enforcement – Wage Claim Adjudication

Program Budget	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Authorized Expenditures	\$32,298	\$34,124	\$40,972	\$51,910	\$51,168	\$47,281
Actual Expenditures	\$32,321	\$31,037	\$32,293	\$33,692	N/A	N/A
Authorized Positions	196.0	200.5	207.5	234.0	250.0	276.5
Filled Positions	181.2	179.5	169.1	158.0	182.7	N/A
Vacancies	14.8	21.0	38.4	76.0	67.3	N/A

The total number of vacancies for WCA was 68 as of October 7, 2021, with a vacancy rate of 27% and 61 as of June 20, 2022, with a vacancy rate of 24%. This includes 16 positions that were newly established for WCA on July 1, 2021. Although, this vacancy rate brings WCA closer to the statewide average of 16% in other state agencies and WCA made significant progress with over 80 hires in 2021-22, the unit also saw significant turnover due to promotions and retirements. DIR and WCA have taken steps to further improve recruitment, hiring and retention efforts including: (1) putting in place a structured recruitment process to improve the hiring timeline; (2) established clear communication channels with all stakeholders to recruit viable candidates; (3) coordinated recruitment efforts with educational institutions; (4) improved the department's career opportunities webpage; (5) created more compelling job listings; (6) provided opportunities for team members to provide feedback on work improvements; (7) developed a trauma informed model that supports team member wellness and tools to manage claims and the needs of the

public; and (8) are restructuring to allow for additional leadership in order to advance training and the overall work and capacity of the team.

Historical Workload

Workload Measure	2018	2019	2020*	2021*	2022**
Number of Claims Filed	32,310	29,404	25,583	18,691	38,711
Number of Settlement Conferences Held	20,549	19,648	15,037	10,421	16,345
Number of Hearings Held	7,537	7,111	4,219	4,080	7,089

^{*} Number of Wage Claims Filed, Settlement Conferences Held and Hearings Held dropped significantly in 2020 and 2021 due to the COVID-19 pandemic.

C. State Level Consideration

This proposal is consistent with the DIR's Strategic Plan to ensure workers health, safety and rights are safeguarded by providing focused education and resources to workers to provide awareness of labor law requirements and enforcing laws to protect workers from wage theft and retaliation.

D. Justification

The DLSE was created by statute to, among other things, process and adjudicate disputes regarding wage theft. This proposal will further DIR's mission to build a safe and fair workplace and a thriving economy, by reinforcing confidence that DLSE will continue its duty to enforce California's labor laws. Approval of this proposal will advance the Administration's agenda to focus on equity and income equality by promoting economic justice to California's diverse wage earners through robust enforcement of labor laws.

It is the division's ultimate goal to become statutorily compliant with timelines in the Labor Code. As such, to reduce claim-processing times to bring the division closer to compliance, DLSE requests the following resources:

Additional Staffing to Conduct Intake, Investigate, and provide Outreach

Consistent with the increased growth in online wage claims and the need to ensure that claimants produce the best information in order to effectively process their claims, DLSE requests an additional 32 IRRs to place two in 16 district offices. These representatives will facilitate the processing of online wage claims. The IRRs will further support other claim filing efforts to workers, such as lead workshops/outreach clinics in order to effectively file claims. This is foundational to processing cases timely because it will minimize errors, which consequently will maximize enforcement efforts and mitigate the need to amend the claim during the claim process which often causes delays.

In tandem with requesting 32 IRRs to provide outreach and conduct claim intake, DIR requests two Associate Governmental Program Analysts (AGPA) for DLSE's Administration unit and one AGPA and one Staff Services Manager I for DIR's Human Resources division to coordinate hiring and recruitment efforts in order to reduce vacancy rates and to facilitate reaching a healthy and constant flow-basis hiring model.

^{** 2022} is based on data as of December 17, 2022.

Resources for development of automation system for Order, Decision or Awards (ODAs)

Upon the conclusion of an adjudicative hearing, hearing officers are tasked with writing their findings in the form of an order, decision or award (ODA). An ODA describes the facts of the case, the legal basis for enforcement of the claims, an analysis of the facts and law, and a conclusion identifying amounts due and liable parties. As claim filings increase and case complexity grows, deputies or hearing officers are faced with a high volume of cases to adjudicate and an extensive number of ODAs to write. These conditions aggravate backlogs and prolong wait times for claimants. As such, DLSE requests \$500,000 to fund a one-time contract for automation of ODAs to standardize preparation of ODAs in order to handle volume and facilitate writing of complex cases. Automated ODAs will be produced from the existing case management system based on pre-populated data and an existing library of case law to help produce the legal basis and liabilities that make up an ODA.

CBOs to launch the Community Navigator Program

Most wage claims are filed by low wage earners and only 12% of claimants are represented. The combination of a vulnerable demographic and systemic barriers produce a cyclical ineffective process. An infusion of resources is needed to support vulnerable worker populations in successfully maneuvering the wage claims process. Consistent with the need to provide education to workers on navigating the claims process and mitigate claim deficiencies and redundancies, DLSE requests \$1.5 million to fund a one-time contract to build a Community Navigator Program with qualified community partners and trained professionals who will provide legal information to vulnerable claimants and serve as a guide through the wage claim process. Community navigators will educate a claimant by using existing tools to explain the wage claim process and recovery; assist claimant with completing respective forms; evaluate situation to ensure all appropriate employers are properly named; calculate owed wages, penalties, and interest; identify employer assets; prepare claimant for conference and hearing appearances; confirm participation for each proceeding; review violations alleged and supporting evidence; conduct role plays of potential questions and cross examinations; follow up with parties and DLSE to finalize settlement or prepare for hearing; educate claimant on viable options for enforcing judgments; and conduct a closing meeting with claimant to review proactive steps to protect themselves at work, including a survey evaluating the effectiveness of this program.

Resources for Information Webinars/Workshops

DLSE requests \$300,000 in one-time funding to contract with a legal non-profit organization to provide workshops explaining the wage claim process with a trauma informed lens. These webinars/workshops will provide claimants with an opportunity to understand the process, manage expectations, impact of their involvement on their case, actively advocate for themselves and successfully maneuver the wage claim process. Generally, an informed claimant operating in good faith will be able to contribute to a swifter resolution of claim. The approach to providing this service with a trauma informed lens also addresses potential distrust in government by providing workers with positive experiences where they obtain practical information to defend their rights at work. In collaboration with DLSE, the vendor will provide: PowerPoint slides and script for each presentation, complimentary materials for participants, document all questions and answers provided and follow up with DLSE and members of the public regarding any pending items.

Resources for Business Process Reengineering

DLSE is committed to process improvements and exploring further efficiencies and thereby requests \$300,000 in funding to engage business process reengineering experts to critically examine the division's wage claim processes and help identify deficiencies and provide solutions to build a more sustainable and efficient wage claims process. Having an exterior analysis review

of the WCA's unit's current processes will not only provide potential changes to the claim process to lessen wait times and assist claimants, but highlight current processes that are pragmatic.

Judgment Entry Project

DLSE currently has 65,781 unpaid judgments awaiting processing and the law provides an interest assessment of 10% for unpaid judgments. Due to current limitations in the current case management system, this task is done manually across all programs. This task can be automated allowing much needed human resources to focus on those tasks which cannot be automated. DLSE is seeking a one-time expenditure of \$2 million for an Information Technology (IT) improvement contract to design and develop a solution that's scalable and tightly integrates a judgement interest calculator with the current case management system, incorporating current best practices to enhance and streamline internal processing. This effort will encompass analysis, design, development, integration, testing, implementation, and training.

To carry out these IT enhancements, DIR requests 5 Information Technology Specialist (ITS) I positions and one ITS II position to support the enhanced automation efforts to improve wage claim processing.

E. Outcomes and Accountability

Reduce the wage claim processing time from claim filing to settlement conference or referral to hearing in an attempt to become statutorily in compliance with Labor Code section 98(a). The goal is to reduce claim processing wait times by at least 200 days the first year after implementation of items delineated in this BCP, with increased reduction in claim processing times in subsequent years after. Additionally, the goal is to reduce wait times from the date a hearing is held to the date a decision is rendered. Due to the injection of resources that will be utilized to perfect claims and engage parties earlier in the claim process, the division expects an overall increase in claim resolutions and collection of wages.

F. Analysis of All Feasible Alternatives

1. Approve as Proposed

Pro: This alternative is recommended. This proposal will provide resources to ensure appropriate staffing levels to reduce wage claim processing times. It will provide a level of resources that is logistically possible to implement and assist the division in coming closer into statutory compliance.

Con: This alternative will increase the appropriation from the Labor Enforcement and Compliance Fund by \$6.5 million ongoing annually.

2. Do Nothing

Pro: No additional resources would be required.

Con: This alternative fails to address any issues raised and discussed in this proposal. This alternative would continue operating with the present staffing levels at which statutory mandates are not being met. The number of days to process a claim will continue to climb. Delay in hearings stymies the enforcement work of the BOFE and RCI units, creating a reverberating effect across the division. Ultimately, this will lead to public frustration with long delays and distrust with the Labor Commissioner's ability to fight for victims of wage theft.

3. Approve proposal for limited-term basis

Pro: This alternative would help address the backlog of claims from prior years and help decrease the processing times in the majority of WCA offices.

Con: This alternative does not factor in the learning curve experienced by new staff during training. Just at the time staff start addressing the backlog, funding for positions would expire, leaving the WCA unit in the same situation and making the WCA unit vulnerable to increasing claim processing times. Limited-term positions divert resources from processing claims in order to train and supervise limited-term staff who will be leaving in a short time. Additionally, limited-term positions have historically been difficult to recruit for.

G. Implementation Plan

The hiring process will begin immediately upon authorization of the additional staff as laid out in this proposal.

H. Supplemental Information

N/A

I. Recommendation

Approve proposal as requested. This enhancement will be funded by the Labor Enforcement and Compliance Fund and the Labor and Workforce Development Fund.

BCP Fiscal Detail Sheet

BCP Title: Wage Claim Adjudication Support to Decrease Case Processing Times

BR Name: 7350-005-BCP-2023-GB

Budget Request Summary

Personal Services

Personal Services	FY23	FY23	FY23	FY23	FY23	FY23
	Current	Budget	BY+1	BY+2	BY+3	BY+4
	Year	Year				
Positions - Permanent	0.0	42.0	42.0	42.0	42.0	42.0
Total Positions	0.0	42.0	42.0	42.0	42.0	42.0
Earnings - Permanent	0	2,797	2,797	2,797	2,797	2,797
Total Salaries and Wages	\$0	\$2,797	\$2,797	\$2,797	\$2,797	\$2,797
Total Staff Benefits	0	1,588	1,588	1,588	1,588	1,588
Total Personal Services	\$0	\$4,385	\$4,385	\$4,385	\$4,385	\$4,385

Operating Expenses and Equipment

Operating Expenses and Equipment	FY23	FY23	FY23	FY23	FY23	FY23
	Current	Budget	BY+1	BY+2	BY+3	BY+4
	Year	Year				
5301 - General Expense	0	172	172	172	172	172
5302 - Printing	0	64	64	64	64	64
5304 - Communications	0	96	96	96	96	96
5306 - Postage	0	111	111	111	111	111
5320 - Travel: In-State	0	131	131	131	131	131
5322 - Training	0	39	39	39	39	39
5324 - Facilities Operation	0	994	896	896	896	896
5340 - Consulting and Professional Services -	0	4,600	0	0	0	0
External	O	ŕ	O	O	O	O
5344 - Consolidated Data Centers	0	245	245	245	245	245
5346 - Information Technology	0	293	293	293	293	293
5368 - Non-Capital Asset Purchases - Equipment	0	520	55	55	55	55
Total Operating Expenses and Equipment	\$0	\$7,265	\$2,102	\$2,102	\$2,102	\$2,102

Total Budget Request

Total Budget Request	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
Total Budget Request	\$0	\$11,650	\$6,487	\$6,487	\$6,487	\$6,487

Fund Summary

Fund Source

Fund Source	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
State Operations - 3078 - Labor and Workforce Development Fund	0	4,600	0	0	0	0
State Operations - 3152 - Labor Enforcement and Compliance Fund	0	7,050	6,487	6,487	6,487	6,487
Total State Operations Expenditures	\$0	\$11,650	\$6,487	\$6,487	\$6,487	\$6,487
Total All Funds	\$0	\$11,650	\$6,487	\$6,487	\$6,487	\$6,487

Program Summary

Program Funding

Program Funding	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
6105010 - Wage Claim Adjudication	0	11,650	6,487	6,487	6,487	6,487
Total All Programs	\$0	\$11,650	\$6,487	\$6,487	\$6,487	\$6,487

Personal Services Details

Positions

Positions	FY23	FY23	FY23	FY23	FY23	FY23
	Current	Budget	BY+1	BY+2	BY+3	BY+4
	Year	Year				
1402 - Info Tech Spec I (Eff. 07-01-2023)	0.0	5.0	5.0	5.0	5.0	5.0
1414 - Info Tech Spec II (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
4800 - Staff Svcs Mgr I (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
5393 - Assoc Govtl Program Analyst (Eff. 07-01-	0.0	3.0	3.0	3.0	3.0	3.0
2023)	0.0	5.0	5.0	5.	5.0	
9483 - Industrial Relations Rep (Eff. 07-01-2023)	0.0	32.0	32.0	32.0	32.0	32.0
Total Positions	0.0	42.0	42.0	42.0	42.0	42.0

Salaries and Wages

Salaries and Wages	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
1402 - Info Tech Spec I (Eff. 07-01-2023)	0	468	468	468	468	468
1414 - Info Tech Spec II (Eff. 07-01-2023)	0	111	111	111	111	111
4800 - Staff Svcs Mgr I (Eff. 07-01-2023)	0	88	88	88	88	88
5393 - Assoc Govtl Program Analyst (Eff. 07-01-2023)	0	224	224	224	224	224
9483 - Industrial Relations Rep (Eff. 07-01-2023)	0	1,906	1,906	1,906	1,906	1,906
Total Salaries and Wages	\$0	\$2,797	\$2,797	\$2,797	\$2,797	\$2,797

Staff Benefits

Staff Benefits	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
5150350 - Health Insurance	0	140	140	140	140	140
5150600 - Retirement - General	0	819	819	819	819	819
5150900 - Staff Benefits - Other	0	629	629	629	629	629
Total Staff Benefits	\$0	\$1,588	\$1,588	\$1,588	\$1,588	\$1,588

Total Personal Services

Total Personal Services	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
Total Personal Services	\$0	\$4,385	\$4,385	\$4,385	\$4,385	\$4,385